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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Albania

Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1991/76

1. At its forty-seventh session, the Commission on Human Rights adopted, on 6 March 1991, resolution 1991/76 entitled "Situation of human rights in Albania", the operative part of which reads as follows:

"The Commission on Human Rights,

"...

"1. Expresses its appreciation and thanks to the Secretary-General for having raised during his official visit to Albania from 11 to 13 May 1990, with the Albanian authorities at the highest level, a number of issues pertaining to Commission resolution 1990/49, including several individual cases regarding which the Government subsequently provided confidential information;

"2. Calls upon the Government of Albania to free all political prisoners and adopt, as soon as possible, legislative and administrative measures to meet the requirements under the International Bill of Human Rights and other relevant international instruments, by which freedom, democracy and the rule of law will be established and the human rights and fundamental freedoms of all Albanian citizens will be effectively promoted and protected;

"3. Emphasizes that all Albanian citizens should be enabled to exercise their right to vote and to stand for election and measures should be taken to guarantee the free expression of the will of the electors during the next proclaimed elections;

"4. Requests the Secretary-General:

"(a) To bring the present resolution to the attention of the Government of Albania and to invite it to provide information regarding its implementation;

"(b) To report to the Commission at its forty-eighth session on the implementation of the present resolution;

"5. Decides to continue its consideration of the human rights situation in Albania at its forty-eighth session."

2. In accordance with paragraph 4 (a) of Commission on Human Rights resolution 1991/76, the Secretary-General, on 27 June 1991, addressed a note verbale to the Minister of Foreign Affairs of the Republic of Albania, in which he requested, in view of his reporting responsibility under the resolution, to receive any information that the Government might wish to provide on steps taken or envisaged in the implementation of the relevant provisions of the resolution.

3. In response to this communication, the Chargé d'affaires of the Permanent Mission of the Republic of Albania to the United Nations Office at Geneva on 25 January 1992 addressed a letter to the Under-Secretary-General for Human Rights transmitting a communication entitled "Measures taken to guarantee and promote the observance of human rights in Albania during 1991", which reads as follows.

MEASURES TAKEN TO GUARANTEE AND PROMOTE THE OBSERVANCE OF HUMAN RIGHTS IN ALBANIA

Introduction

4. Respect, protection and promotion of human rights and fundamental freedoms constitutes one of the most important priorities of the deep and all-round democratic process in Albania. In this field, we are led by the conviction that advanced standards of human rights and the effectual mechanisms towards observing them are an important factor towards progress in any country.

5. It is more than a year that Albania has embarked upon the irreversible road to democracy, freedom and human dignity, the rule of law based on the respect of human rights and fundamental freedoms. The democratic transformations are big ones; they embrace all spheres of life in our society and all aspects of human rights and fundamental freedoms. In our practical activity on the human rights issue we abide by the United Nations main instruments on human rights, as well as by the Helsinki Final Act and especially the Concluding Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE) and the Charter of Paris for a New Europe. Albania has officially committed itself to endorse and apply all the respective provisions of the CSCE documents.

6. Since Albania was admitted to the CSCE, first as an observer and then with full rights, it has taken a series of important steps, a necessity emerging from the inner logic of transformations in the country, as well as from its international engagements. The juridical acts enacted hitherto as well as plans for the future have been embodied in the "Law on the principle constitutional provisions" and other laws stipulated by the state organs, which supplanted the old constitution now abrogated and which will be effective until the new one is endorsed.

7. Albania is now a parliamentary republic. Our republic has been characterized as a democratic rule of law, by stipulating that public authorities should necessarily respect such supreme values as human dignity, the rights and the freedoms of citizens, equality before the law, justice and political pluralism.

8. Free, fair, periodic and secret elections have been guaranteed, as the sole source for the representative organs which exercise state power. The principle of the complete separation of the legislative, executive and juridical powers has been guaranteed. State activity is compatible with the constitution and the lawful acts it provides for. Human rights and fundamental freedoms of the individual and national minorities, compatible with Albania's commitments under international law, have been stipulated. The principle of political pluralism as a must for democracy has been guaranteed. Political parties are separate from the State. The full independence of lawyers and the law courts is a reality; they exercise their authority according to the laws only. Respect for the human personality during a penal procedure has been guaranteed and further promoted, with torture and cruel or

humiliating maltreatment stopped. The green light has been given to the free market of capital, commodities and services, thus sanctioning the equal status of all forms of ownership and reinforcing the private sector.

9. These fundamental principles constitute the basis for further democratization, implementation of the new reforms and the establishment and effective functioning of the rule of law.

10. In this context, much has been done as many laws and regulations have been altered. A guiding principle has been the abrogation of the juridical provisions of the previous regime and the enacting of new laws which ensure the protection and further promotion of human rights and fundamental freedoms in line with international standards, in an appropriate juridical framework. The question of human rights and fundamental freedoms has been handled, taking account of responsibilities and well-defined cases in which they can temporarily be nullified.

11. Political pluralism. The introduction of political pluralism, now guaranteed by law and widely practised, was one of the first and most fundamental changes. Thus, decree No. 7442 dated 17 December 1990, now transformed into law No. 7502, states that Albanian citizens can freely form parties and political organizations except for those having an antidemocratic, racist, chauvinistic and totalitarian character, those which go against the constitutional principles of the rule of law or which aim at attaining their goals through violence, etc. Accordingly, more than 20 parties and political organizations have been set up and play an active part in political and social life in Albania.

12. Freedom of expression. A special law has guaranteed freedom of assembly and peaceful demonstration in public places as a means of manifesting freedom of speech and thought and ensuring participation of citizens in public life. The referendum, another means of consulting with people and soliciting their opinions on fundamental issues of the country, has been established. Moreover, "verbal guilt", the crime of agitation and propaganda, has been nullified; no one is in prison for such offences.

13. Freedom of movement. One of the essential changes undertaken in the process of democratization is stipulating the right of Albanian citizens to move freely, to leave the country and to return. Thus, law No. 7393 on issuing passports, dated December 1990 and subsequently revised, states that every Albanian can freely travel abroad and needs no entry and exit visas. Law No. 7380 dated 8 May 1990 is a clearly related measure. It abrogated the former provision under which an individual who fled the country was considered to have committed treason and considers irregular departures from the country to be a simple violation of border regulations.

14. Freedom of movement inside the country has been fully guaranteed, removing previous limitation on the choice of one's place of residence.

15. Freedom of conscience. Important measures have been taken to stipulate freedom of speech, conscience and belief. Thus, freedom of worship has been

recognized, religious institutions were opened and function normally. Relations with the Holy See have been normalized. This was complemented by the abrogation of the penal code provision banning religious propaganda.

16. Freedom of the press. Freedom of expression and information are fully guaranteed. Thus, many newspapers have been set up and they advocate a broad variety of attitudes. This facilitates openness in the society and gives objective, realistic information to the people. Radio and television programmes, now dependent upon the parliament, have acquired a new quality.

17. The ban on importing books has been lifted.

18. A new law on public information is under study which will encourage full freedom of the press. It foresees the right of every juridical and physical body to found newspapers and equal access to information by the State agencies.

19. Respect for the integrity of the individual. The reform of many provisions of the penal code and the penal procedure is under way. This process aims at a better protection of the individual during penal proceedings.

20. The number of criminals sentenced to death has been reduced to a minimum, from 34 to 11, and the possibility of further reducing this figure is under consideration. Capital punishment cannot be administered to women and children under 18.

21. Legal advocates to defend the accused resumed their job, thus guaranteeing the right of defence from the very moment of detention. Strict rules of detention have been worked out: this period can never exceed three days.

22. The law on deportation and exile as an administrative measure, one of the gravest and most massive human rights violations, has also been abrogated.

23. A range of important changes, including the introduction of a rehabilitation institute and prescriptions for penal proceedings and the carrying out of verdicts, aims at providing appropriate legal conditions of defence and ensuring a better expression of the personality of the individual, giving a more humanitarian character to the penal system.

24. Free private initiatives. Having set the objective of transition to a market economy based on free competition, a law concerning the organization of economic activities on the basis of free initiatives was adopted. This creates the possibility of setting up enterprises and entering into partnership and other independent activities. The price and tariffs for the goods and services provided by these enterprises are freely determined by them. Once this law was endorsed, a considerable number of applications were submitted to set up other private enterprises, most of them in the field of consumer goods, services and tourism.

25. Foreign investment. New rules have been adopted to attract and encourage foreign investments in Albania. According to our new legislation, enterprises with the participation of foreign capital or in cooperation with Albanian

enterprises, or solely with foreign capital, can be set up. Likewise, the law guarantees to these enterprises a range of facilities and advantages concerning customs duties, currency transfer, taxes on superprofits, etc.

26. Privatization of agriculture. In connection with agriculture, the law on land was endorsed, on the basis of which the land is distributed to all the peasants of agriculture cooperatives. With the aim of encouraging economically productive activities in the countryside, the State raised the purchase price of agricultural and livestock products. Prices are fixed freely for products sold at the market.

27. Wages. A range of rules has been adopted with the purpose of eliminating injustices concerning the wages of workers and of improving the working conditions in the various branches of the economy. In this respect, in the branches characterized by difficult work conditions (mining, oil sector, metallurgy) wages have been raised, along with their general increase all over the country. Likewise, regulations have been undertaken concerning unjust interruption of wages when, owing to reasons which do not depend on the working collective, work has been interrupted. In these cases workers are paid 80 per cent of their wages for the entire period.

28. Social insurance. The system of social insurance has been improved, pension remunerations have been raised and the right to social insurance has been extended, including to agricultural cooperative members.

29. Trade unions. Within the framework of the process of democratization in Albania, free and independent trade unions have been created in all the enterprises and institutions. They have elected their leadership and have increasingly undertaken responsibilities to safeguard the rights of workers, while holding talks with the managers of the enterprises and submitting petitions to the State organs. At present, the trade unions are organizing themselves on a branch basis, and the mechanisms of cooperation among them are being established.

30. The law on the right to strike has been endorsed, and the rules referring to the settlement of work collective conflicts are under examination.

31. Culture. Full freedom of creativeness has been guaranteed. Writers, artists, composers, film producers have transformed their professional organizations and associations, which now enjoy full independence. Albanian cultural associations have been established, as well as international ones, and a number of newspapers, books and magazines have been published.

32. The Government has adopted measures to protect historical monuments, archeological sites, monasteries, churches and other religious objects.

33. Relevant bodies for the protection and encouragement of human rights. The new mechanisms of protection and control have a positive impact on the improvement of the situation in the field of human rights. Such mechanisms are, for instance, the parliamentary Special Commission for the protection of the human rights and fundamental freedoms of the individual and national minorities, a range of governmental experts, the Ministry of Justice in general. The Forum for the protection of human rights and fundamental

freedoms is rendering a very important contribution. The same applies to other non-governmental organizations, established more than a year ago, which deal with the protection and encouragement of human rights and fundamental freedoms.

34. An important role in the observance of human rights is also played by the publication and progagandizing of the relevant international instruments, such as the Helsinki Final Act, the documents of the Vienna and Copenhagen meetings, the Paris Charter for a New Europe, as well as other documents. The stimulation of an all-round culture on human rights and awareness of the need for a broad and continued participation by everyone in matters dealing with the protection and encouragement of human rights is a principal task set to all the State organs and non-governmental organizations concerned.

Holding of free elections

35. The law on elections. The law on elections provides for the election of the parliament with general, equal, direct and secret voting, on the basis of the free will of the electors. The law prohibits every pressure or other form of enforcement impeding the free expression of the citizens' will during the exercise of the right to participate in elections.

36. In order to hold fair elections, the law provides that during the electoral campaign, the candidates, parties, political organizations and citizens are entitled to express their views freely, without being hindered, at meetings and other gatherings, through the press, TV, radio, etc. An equal use of radio and television in carrying out the electoral campaign was guaranteed. The political parties and organizations which participated in the electoral campaign were subsidized by the State budget.

37. Holding of 31 March 1991 elections. In conformity with the provisions of the law, on 31 March 1991, the first free and pluralist elections for the deputies to the parliament were held. All the political parties existing at that time, the political and social organizations as well as independent candidates took part in the elections; 98.92 per cent of the electors also took part.

38. The elections were in general held correctly and in conformity with the laws on elections. The atmosphere in which they were held was quiet and normal. Foreign observers and mass media representatives were invited to watch the election process.

39. From the beginning, the Albanian Government expressed its desire to have foreign observers to watch the elections in Albania on the spot. Invitations were sent to the Council of Europe, the European Parliament and to all the CSCE participating State parliaments, the political parties of some countries, specialized non-governmental organizations, as well as to independent political personalities. The elections were also observed by 350 foreign journalists from all over the world.

40. The Albanian Government provided all the observers with the possibility to watch the entire electoral campaign. To this end, a series of facilities was reserved for the observers: placing at their disposal every information

and document related to the legal framework of the organization and holding of elections, free contacts with the leaders of all the political forces, with the candidates, with the Central Election Commission and other commissions, free access to the voting centres to follow the process of the elections, etc.

41. Participation in international cooperation. Referring to participation in the CSCE process, the Albanian Government, through the September 1990 Declaration, committed itself to recognize and observe all the obligations provided in the CSCE documents.

42. From the onset of the process of democratization, Albania maintained a new attitude concerning the international acts on human rights. During this period it has signed or ratified a series of international acts, among which the most important are the Convention on the Rights of the Child and the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. Likewise, the possibility of also adhering to a great number of other United Nations acts on human rights is being discussed.

43. As becoming a party to the most important conventions on human rights, the Albanian authorities are carefully examing the entire body of legislation inherited from the old regime with the aim of harmonizing it with the commitments of these conventions. Particular attention has also been devoted to the comments of the experts' committees charged with the examination and implementation of those conventions, so that our legislation is improved at the earliest and full compliance with the international commitments undertaken by the Albanian State is ensured.

44. Likewise, the possibility of undertaking new commitments is being examined, for instance, adherence to the European Convention on Human Rights and ratification of a series of conventions concluded in the context of the Labour International Organisation.

45. Albania has adopted a new constructive position in the field of cooperation with the competent bodies on human rights. Our country has been visited by a great number of non-governmental organizations engaged in the field of human rights, which have had free contacts with all persons and organizations they have asked to meet.